

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

BCB CHEYENNE, LLC, d/b/a  
BISON BLOCKCHAIN, a Wyoming  
limited liability company,

Plaintiff,

vs.

MINEONE WYOMING DATA CENTER,  
LLC, a Delaware limited  
liability company; MINEONE  
PARTNERS, LLC, a Delaware  
limited liability company;  
TERRA CRYPTO, INC., a Delaware  
corporation; BIT ORIGIN LTD.,  
a Cayman Island company;  
SONICHASH, LLC, a Delaware  
limited liability company;  
BITMAIN TECHNOLOGIES HOLDING  
COMPANY, a Cayman Island  
company; BITMAIN TECHNOLOGIES  
GEORGIA LIMITED, a Georgia  
corporation; and JOHN DOES 1-20,  
related persons and companies  
who control or direct some or  
all of the named Defendants,

Defendants.

DOCKET NO. 23-CV-00079-ABJ

(Pages 1 through 53)

Cheyenne, Wyoming  
Thursday, July 11, 2024  
1:35 p.m.

TRANSCRIPT OF MOTION HEARING PROCEEDINGS  
MOTION TO COMPEL DISCOVERY

BEFORE THE HONORABLE MARK L. CARMAN  
UNITED STATES MAGISTRATE JUDGE

**MELANIE L. HUMPHREY-SONNTAG, RDR, CRR, CRC**  
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*Proceedings reported with realtime stenography;*  
*transcript produced with computer-aided transcription.*

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I N D E X

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1 (Proceedings commenced 1:35 p.m., July 11, 2024.)

2 THE COURTROOM DEPUTY: Court is now in session, the  
3 Honorable Mark L. Carman presiding.

4 THE COURT: Good afternoon.

5 We're going to come to order in the case of  
6 BCB Cheyenne, LLC, d/b/a Bison Blockchain, plaintiff, versus  
7 MineOne Wyoming Data Center, LLC, and et al. This is Civil  
8 Case 23-CV-79.

9 We are here on a hearing that I requested relating to  
10 Plaintiff BCB Cheyenne, LLC's expedited motion to compel  
11 discovery from the MineOne defendants. That's the only motion  
12 that's involved today.

13 I set this hearing because, quite frankly, since the  
14 time that this motion was filed, there's been a fair amount --  
15 I think that would be a minor statement -- of activity, and  
16 it -- I have some doubts as to about what is still in issue  
17 and what is not in issue following the events of the hearing  
18 and the resulting order entered by Judge Johnson.

19 I do want to set a couple of ground rules for today's  
20 hearing.

21 I know that there are significant disputes that have  
22 arisen between the parties and both parties have vigorously  
23 represented their clients. But, quite frankly, if you want to  
24 tell me that the other side is bad, don't waste your time.  
25 I'm tired of hearing that. I don't want to hear any

1 derogatory comments about opposing counsel. And if I can't  
2 make that any clearer, I will if it comes up.

3           You can say that they did not tell us that or they  
4 failed to answer that question appropriately. You can make  
5 factual statements. But we do not need to hear the ongoing  
6 back-and-forth about character assassination in this case.  
7 We're going to stay focused on a legal argument, and there  
8 will be sanctions if parties violate that rule.

9           Also, there are times when this hearing -- when these  
10 hearings, including conferences I've had with these parties --  
11 have become heated and people start to talk over each other.  
12 I am going to protect the court reporter vigorously in this  
13 matter. That will not occur. I hope I make myself clear to  
14 everybody in that regard.

15           Now, in conjunction with this motion, I have been  
16 provided documents, which I ordered on an informal conference  
17 to provide me, redacted and unredacted versions of those so  
18 that I could review them. There was some difficulty in  
19 getting those documents to me in a manner and getting all the  
20 documents to me in a way that allowed me to review them.  
21 There -- some of the documents -- I didn't receive the  
22 unredacted version of some of the documents, and there were  
23 attachments that I had some difficulty, at least initially,  
24 figuring out where they went.

25           I have completed the process of getting those

1 documents organized in a way that I can review them, but,  
2 because of that delay and my other court demands, I have been  
3 unable to complete that review. I'm about -- I think  
4 I've done 5 of the 10 days. And I was in court all day this  
5 morning, so I was unable to make any progress in that regard.

6 While I do not have the latter dates, I do have a  
7 good sense of at least what the earlier -- and these are Skype  
8 messages -- deal with. So I may have some questions in that  
9 regard for the parties, but I do think that relates to this  
10 expedited motion to compel discovery.

11 So what I'm going to do is I'm going to turn to  
12 Mr. Murphy first, and I'm going to ask him to identify those  
13 areas that still remain in issue. I know that a lot of  
14 documents were produced in preparation for the hearing or  
15 maybe even during the hearing or after the hearing. It  
16 doesn't really matter to me; it just matters to me whether or  
17 not they were produced.

18 And so I do not . . . I do need Mr. Murphy to tell me  
19 what is still at issue, what documents he's still looking for  
20 or believes he's entitled to that he has not yet received and  
21 which he continues to maintain this motion to compel on.

22 So, Mr. Murphy, I turn to you first.

23 MR. MURPHY: All right. Thank you, Your Honor.

24 And, if it please the Court, Ms. Colbath, and all the  
25 other counsel, let me just directly answer your question right

1 off the front and then jump into my argument, Your Honor.

2 The -- the four groups is that BCB needs and requests  
3 all loan documents, investment documents, sales documents,  
4 promissory notes, and security documents. That's the first  
5 category.

6 THE COURT: Okay.

7 MR. MURPHY: Second --

8 THE COURT: Let's go through that. One second,  
9 Mr. Murphy.

10 Loan documents. What else?

11 MR. MURPHY: Investment documents.

12 THE COURT: Investment.

13 MR. MURPHY: Sales documents.

14 Promissory notes.

15 And security documents. Like security interests,  
16 that kind of thing.

17 THE COURT: For this myriad of entities which may or  
18 may not be related? Is that a fair statement?

19 MR. MURPHY: Somewhat fair. It's clear that most all  
20 of them are related. But it has to do with all of the alleged  
21 loans that MineOne says it has with its alleged creditors who  
22 we believe are really just camouflaged equity.

23 THE COURT: Understood.

24 And I don't know if it's clear, but I attended the  
25 entire hearing on the writ, so I have a -- a much broader

1 understanding of what is occurring than maybe I did before  
2 that hearing.

3 Second category, Mr. Murphy.

4 MR. MURPHY: It would be the drafts of all of those  
5 financial documents I just mentioned, Judge.

6 In other words, not just the -- the final documents  
7 of those but the drafts of those.

8 THE COURT: Third?

9 MR. MURPHY: Third is that we're seeking all of the  
10 contemporaneous correspondence, unredacted, in native  
11 EML form, including all attachments in native form, concerning  
12 those loan documents by and between all individuals and/or  
13 entities involved with negotiating and/or a party to those  
14 financial documents that I mentioned in the first category.

15 THE COURT: Now, that would exceed the Skype messages  
16 that I'm currently reviewing. My understanding of the Skype  
17 messages are simply internal in nature.

18 Correct?

19 MR. MURPHY: I think -- I think you're right,  
20 Your Honor. I think that those Skype messages are just a  
21 separate, independent matter, as compared with the  
22 contemporaneous correspondence regarding these loan documents.

23 THE COURT: Okay. And the fourth category?

24 MR. MURPHY: The last category is that, for the  
25 specific time period of May 1 of 2022 through May 31 of 2024,



1 the accounting journal entry ledgers, which would contain  
2 information on all of those transactions, those financial  
3 transactions, which would include the date, the time, and the  
4 author of each entry and, if later edited, the day, time, and  
5 author of each entry, and all of the bank statements for  
6 MineOne. That's where we would see the contemporaneous  
7 evidence of how MineOne treated or didn't treat all of these  
8 alleged loans.

9 And that's it.

10 THE COURT: Well, you make it sound like it's nothing  
11 at all.

12 MR. MURPHY: I don't mean to say that. In fact,  
13 I said in my papers that it was a robust request.

14 THE COURT: Okay. Before I ask for Ms. Colbath's  
15 comments on those particular categories, I'm going to go ahead  
16 and allow you to make your argument, Mr. Murphy.

17 MR. MURPHY: All right. And, again, thank you, Your  
18 Honor.

19 And, if it please the Court and counsel, I don't know  
20 if you saw BCB Member Michael Murphy on the Zoom call, but  
21 I asked Mr. Murphy to be here because he could better answer  
22 any of Your Honor's questions about these MineOne loans and  
23 whether they should properly be characterized as entities.

24 So I don't think Mr. Murphy will be speaking, but, if  
25 the Court has a specific question that I'm not able to answer,

1 I'd like to be able to defer.

2 So --

3 THE COURT: Mr. Murphy, when -- when you say "the  
4 phone call," you're talking about the hearing on the writ?

5 MR. MURPHY: No. I'm talking about today's call  
6 right now in realtime with Your Honor.

7 THE COURT: Oh. I thought you were saying you don't  
8 know if I was on the call.

9 MR. MURPHY: I didn't know that you were on the call  
10 until you just informed us.

11 But what I was trying to say -- obviously  
12 inartfully -- is that Michael Murphy, the BCB member, is here  
13 on this Zoom call today if Your Honor has any specific  
14 question about one of those loans. I know Michael is much  
15 more prepared to answer that than I am.

16 THE COURT: Okay.

17 MR. MURPHY: That's all.

18 THE COURT: I understand. But, anyway, the bottom  
19 line is I did hear his testimony during that hearing.

20 MR. MURPHY: Fine.

21 THE COURT: Okay.

22 MR. MURPHY: I'm with you now. I'm with you. Okay.

23 Let me give you the -- you had earlier asked, when  
24 you started the hearing, that -- I think you had some doubts  
25 as to what is or what is not at issue today, and the first

1 part of my argument speaks to the context for the expedited  
2 motion to compel.

3 As I mentioned, BCB is seeking the contemporaneous  
4 financial documents and correspondence that will prove or tend  
5 to prove that MineOne's alleged loans and financial  
6 obligations to others are genuine, bona fide loans or whether  
7 they are really camouflaged equity.

8 And this discovery issue is as important now as it  
9 was before the June 26th evidentiary hearing. It is relevant  
10 and needed for BCB's July 22 response to MineOne's July 8  
11 motion to increase the surety bond from \$100,000 to over  
12 \$23 million, and it is relevant for trial.

13 Following the evidentiary hearing and the oral  
14 arguments -- and your memory is going to be better than mine;  
15 you were there -- Judge Johnson found and ruled as follows:  
16 He said, quote -- and I have the transcript -- "It became  
17 apparent to me, looking back on it in retrospect, that the  
18 effort on the part of MineOne was to get BC out of it, out of  
19 their relationship, to get rid of them. And they had hoped  
20 that -- offering them the paltry sum of \$45,000 -- that BCB  
21 would sign the new agreement and disappear for all practical  
22 purposes, not having any real connection in Phase 2," unquote.

23 Judge Johnson observed that BCB was, quote, "being  
24 frozen out by MineOne from this project in March '23,"  
25 unquote, and then he said "I think there is substantial merit

1 to the arguments and the evidence we have seen that this may  
2 be camouflaged equity investments," unquote.

3 Judge Johnson said the alleged loans or equity  
4 contributions are a question best left to the trial in this  
5 case, and he found, with respect to MineOne's alleged loans  
6 and whether they are more properly characterized as  
7 camouflaged equities, that, quote, "The potential certainly  
8 exists here in this case and the concerns of -- reflected by  
9 the layers upon layers -- I thought they were very well  
10 explained by Michael Murphy -- of the defense and its  
11 financing in this matter and the camouflaged equity theories,  
12 which had meaning to me and evidentiary strength in this  
13 case."

14 All right. That's the background from that hearing.

15 And now we turn to MineOne's newest pleading, from  
16 Monday of this week, and this is MineOne's July 8th objections  
17 to the amount of the prejudgment attachment bond.

18 With these new objections to the Court's \$100,000  
19 surety bond, MineOne is seeking to wipe out Judge Johnson's  
20 prejudgment writs of attachment and garnishment. I say that  
21 because MineOne is asking Judge Johnson to increase the  
22 \$100,000 surety bond from that 100,000 to at least 22 million  
23 939 dollars and -- and 679 dollars [sic].

24 MineOne knows that BCB will never be able to post a  
25 surety bond of 150,000 or more because such a bond will

1 require BCB to put up the same amount of money as collateral  
2 to obtain the bond, which BCB can't do.

3 And I don't know if the Court has encountered this in  
4 your legal career or your judicial career, but, to obtain a  
5 surety bond like this, the -- the promisor -- in this case,  
6 BCB -- actually has to put up its own money in the face amount  
7 of the bond to secure the bond. It's a rather remarkable  
8 racket the surety bond companies have, but that's the way  
9 it is.

10 And here's how it is important to our discovery issue  
11 today: MineOne says this to justify its new request that a  
12 new bond for nearly 23 million be required, quote -- they say  
13 "The losses the MineOne defendants will suffer as a result of  
14 the Court's seizure and attachment of over 15 1/2 million of  
15 the CleanSpark sales proceeds as a result of the wrongful  
16 issuance of the writ will be in the amount of \$22,939,679.68  
17 and, of that, 11,250,000 in damages if CFIUS does not approve  
18 the sale of the land at North Range and MineOne does not  
19 receive the proceeds from the CleanSpark transaction plus  
20 \$2,369,311.68 in outstanding attorneys' fees plus 1,500,000 in  
21 estimated attorneys' fees through discovery and trial and to  
22 defend against potential lawsuits from lenders plus \$4,152,434  
23 in the minimum amount Terra Crypto will sue MineOne Data in  
24 connection with its unpaid loan due and owing plus \$3,667,934  
25 in the minimum amount the additional five lenders will sue

1 MineOne Data in connection with their unpaid loans due and  
2 owing," unquote. Those are the unpaid loans that we're  
3 talking about with the expedited motion to compel.

4 So, consequently, Your Honor, the question of whether  
5 MineOne's alleged loans are genuine, bona fide loans or  
6 whether they are really just camouflaged equity is before the  
7 Court on MineOne's July 8th motion and will be at issue,  
8 according to His Honor, at the January trial.

9 And, with its expedited motion to compel discovery,  
10 BCB asked the Court to compel the discovery of those four  
11 categories of documents that I mentioned earlier, which will  
12 prove or tend to prove whether these millions of dollars of  
13 alleged loans are bona fide loans or really just camouflaged  
14 equity. This is the requested production that will either  
15 substantiate the representations made by Dr. Ringifo in his  
16 May 24 declaration about the transactions involving related  
17 parties or expose these financial transactions as camouflaged  
18 equity.

19 We also know and we proved it to Judge Johnson that  
20 the MineOne defendants are an intertwined web of related  
21 parties, each with an interest and a motive to position its  
22 and their creditor priority higher than BCB's creditor  
23 priority.

24 So, while MineOne offers to provide BCB with only  
25 most of the subject -- the subject documents themselves, BCB

1 needs all of the following four categories of information to  
2 substantiate the true nature of these financial transactions  
3 and expose whether they are genuine loans or camouflaged  
4 equities. And then I have -- I -- I've shared with you those  
5 four categories.

6 So we need to get to MineOne's counter and rebuttal  
7 to this. What is MineOne's counter for these four groups of  
8 documents?

9 MineOne first says, quote, "BCB's document requests  
10 are not relevant to its cause of action for breach of contract  
11 against the MineOne defendants," unquote.

12 We know these financial documents are not relevant to  
13 BCB's breach of contract claim, but they are highly relevant  
14 to whether these alleged loans are genuine, bona fide loans or  
15 camouflaged equity. They are relevant to the amount of the --  
16 BCB's surety bond. They are relevant to the priority of these  
17 alleged loans versus BCB's likely judgment, and John- -- and  
18 Judge Johnson said, quote, "This issue about loans versus  
19 equity is best reserved for trial."

20 MineOne next says "BCB's improper financial document  
21 requests are a last-ditch" -- this is a quote -- "last-ditch,  
22 improper effort to salvage a frivolous application for  
23 attachment," unquote.

24 We know BCB's attachment application was not  
25 frivolous. It was well supported and it was granted. Even

1 with only most of the subject documents themselves, BCB was  
2 able to demonstrate that MineOne's alleged loans look more  
3 like camouflaged equity than loans.

4 MineOne next says that, quote, "BCB is, at best, a  
5 speculative judgment creditor holding unproven, utterly  
6 speculative claims and even more speculative and unsupport- --  
7 unsupportable allegations of damages," unquote.

8 But Judge Johnson eviscerated this argument when he  
9 found that BCB had proven it had a substantial likelihood of  
10 prevailing at trial for more than the \$15,529,165 that  
11 His Honor attached with the Court's writs.

12 MineOne next says that a plaintiff is, quote, "not  
13 permitted the discovery of facts concerning a defendant's  
14 financial status or ability to satisfy a judgment since such  
15 matters are not relevant and cannot lead to the discovery of  
16 admissible evidence," unquote.

17 But this general rule with which Your Honor is well  
18 familiar applies to personal injury and wrongful death cases  
19 where the plaintiff cannot show a prima facie case of willful  
20 and wanton misconduct but is simply not applicable here.

21 Here, the question is whether MineOne's alleged loans  
22 are really loans or camouflaged equity. The question is not  
23 whether MineOne acted with willful and wanton misconduct to  
24 support a punitive damages award. The punitive damages case  
25 law and the law disallowing a defendant tortfeasor's financial



1 ability to pay a compensatory verdict is inapplicable to this  
2 breach of contract case and MineOne's contention that its  
3 alleged loans have priority over BCB's likely judgment.

4 MineOne next says that BCB's financial requests,  
5 quote, "are a mere pretext to disrupt the MineOne defendants'  
6 preparation for the upcoming evidentiary hearing and should be  
7 denied," unquote, but this argument wasn't valid before the  
8 evidentiary hearing and it clearly isn't valid now.

9 Judge Johnson was persuaded that these loans look  
10 more like camouflaged equity than loans, and these requested  
11 financial documents -- the loan documents themselves, the  
12 drafts of these loans, the contemporaneous correspondence, and  
13 the accounting ledgers and MineOne bank statements -- will  
14 provide the definitive proof on the trial question of loans  
15 versus equity.

16 MineOne next argues that, quote, "there is simply  
17 insufficient time to collect the requested financial documents  
18 and to process them for production before the June 26th  
19 evidentiary hearing," unquote. Even if that argument had  
20 merit back on June 19th, one week before the evidentiary  
21 hearing, it has no merit today.

22 And, finally, MineOne heavily exaggerates with its  
23 final argument. MineOne says BCB's financial discovery  
24 requests are, quote, "wildly overbroad," unquote. MineOne  
25 says BCB's requests seek, quote, "excruciating detail

1 regarding every single one of the transactions comprising  
2 MineOne Data's 27.8 million investment in building and  
3 operating the subject cryptocurrency mining facilities,"  
4 unquote, but this is not the case at all, Your Honor.

5           Instead, BCB's financial document requests are  
6 limited to the available evidence surrounding these loans,  
7 insider loans between related parties, and whether they  
8 represent genuine loans or camouflaged equity. They do not  
9 seek evidence of every single one of the many transactions  
10 comprising MineOne's 27.8 million investment in building and  
11 operating the project. MineOne makes this exaggerated  
12 argument to influence the Court into thinking this is an  
13 overbroad request, not a targeted financial request.

14           And, in closing, I'd just like to highlight for  
15 Your Honor two examples of the loans versus equity that really  
16 should firmly root this in the Court's mind.

17           The first example is Terra Crypto. Terra Crypto is a  
18 defendant in the case. Terra Crypto is beneficially owned by  
19 Erick Ringifo and Jiaming Li. They control Terra Crypto.  
20 Similarly, Erick Ringifo and Jiaming Li serve as the  
21 management of MineOne, as two of the three primary  
22 decision-makers, and they control MineOne. Terra Crypto and  
23 MineOne are definitely related parties.

24           And, according to Erick Ringifo's declaration, he  
25 says, quote, "MineOne borrowed a total of \$5,285,701 from

1 Terra in September 2022," end quote. However and importantly,  
2 the defendants have not produced any September 2022 bridge  
3 loan document between MineOne and Terra Crypto, and there is  
4 no substantiation of this alleged loan ever existing, no  
5 contemporaneous communications, no journal entries in its  
6 accounting records documenting the loan, no bank statements  
7 showing MineOne receiving funds from Terra.

8 And, as I mentioned in my email earlier today, the  
9 defendants did produce two loan documents between Terra Crypto  
10 and its parent entity, TG -- TGAM -- but those loan documents  
11 were dated September '22 and December '22, not solely  
12 September '22, which would have been expected based on  
13 Dr. Ringifo's declaration.

14 And Erick Ringifo signed the loan agreements on  
15 behalf of both entities. Why, I ask, were these loan  
16 documents produced and not the loan documents between  
17 Defendant MineOne and Defendant Terra Crypto? I wish I knew.

18 The second and last example are the alleged loans  
19 from the trio of MineOne Data members: Yu & Jing Investment,  
20 LLC; Oriental Sun, LLC; and Rising Sun, LLC. These three  
21 entities are members, owners of MineOne. As such, these  
22 entities are related parties to MineOne.

23 MineOne produced a single loan document for this  
24 collective group of MineOne members. The loan or alleged loan  
25 was made as of April 23, 2024, which was a mere 15 days before

1 the MineOne/CleanSpark PSA was signed on May 8, 2024. MineOne  
2 has produced no information to substantiate the document was  
3 signed on April 23rd of '24, which it -- it could easily do,  
4 as the MineOne members each signed via DocuSign, which tracks  
5 the electronic signing date.

6 Also, the MineOne members' loan agreement states,  
7 quote, "the lenders jointly lent \$1,454,600 to the borrower  
8 and agreed to charge 10 percent annualized interest rate from  
9 May to July 2023," unquote. But, again, MineOne did not  
10 produce any loan documents from May to July of 2023 when the  
11 MineOne members apparently sent funds to MineOne. Why?

12 The MineOne members' loan agreement states, quote,  
13 "The lender would like and the borrower agrees to put the  
14 outstanding balance of \$1,586,207 under contract," quote.  
15 This line suggests why MineOne hasn't provided the  
16 aforementioned May-to-July 2023 loan agreements between the  
17 MineOne members and MineOne. By indicating that they are now  
18 agreeing to, quote, "put the outstanding balance under  
19 contract," the implication is that these loans were never put  
20 under contract -- i.e., documented in a signed loan  
21 agreement -- at the time the funds were sent to MineOne.

22 It is clear that MineOne created the April 23, 2024,  
23 loan agreement to, quote, "clean up and formalize," unquote,  
24 the earlier transactions between it and the MineOne members  
25 and place these alleged loan amounts higher in priority than

1 an equity investment in light of the forthcoming sale of  
2 MineOne's assets to CleanSpark.

3 And so BCB has requested and is requesting that  
4 MineOne produce evidence to substantiate and corroborate these  
5 MineOne member loans so that MineOne can prove that these are  
6 bona fide, arm's length transactions, but MineOne has produced  
7 no substantiating evidence, such as the requested  
8 contemporaneous communications, accounting journal ledgers, or  
9 bank statements.

10 You know, one would think that MineOne would want to  
11 provide this substantiating evidence to prove its claims about  
12 these loans, but MineOne's refusal to do so strongly suggests  
13 that the corroborating information does not exist and/or does  
14 not show what MineOne wants it to show.

15 So these are just two of the many examples of  
16 MineOne's alleged loans and a mere sampling of their  
17 deficiencies to suggest that these alleged loans are nothing  
18 more than the camouflaged equity, and a full and more thorough  
19 analysis was provided in Michael Murphy's amended emergency  
20 motion affidavit.

21 In conclusion, Your Honor, the Court should view  
22 these alleged loan transactions for what they really are,  
23 equity transactions amongst related parties whose principals,  
24 the same principles who made the decision to breach MineOne's  
25 and Terra Crypto's contracts with BCB, stand to benefit

1 personally from strategically calling these subject  
2 transactions loans rather than equity, and BCB needs the  
3 requested documents to prove this.

4 Thank you, Judge Carman.

5 THE COURT: Okay. Before I turn to Ms. Colbath, to  
6 summarize, you're seeking all these different various forms of  
7 financial documents for the reasons you stated.

8 If there was not the issue regarding the writs before  
9 the Court, would you still contend that you're entitled to  
10 that information at this time?

11 MR. MURPHY: The way I would answer -- good question.  
12 And I appreciate it.

13 The way I would answer that is, given the new  
14 July 8th motion to increase the bond meteorically from a  
15 hundred thousand to over 23 million and -- and MineOne's  
16 contention that all of these different loans must be paid  
17 ahead of BCB's likely judgment, that's what is now causing  
18 the -- these loan documents to be relevant. If -- if there  
19 was no issue extant and that the -- the writs were allowed to  
20 stand as is, as stated -- and we know, by the way, CleanSpark  
21 is going to close on Campstool tomorrow -- there wouldn't be  
22 as much of a need for these.

23 But Judge Johnson has told us these -- these loans  
24 versus equity -- those questions are reserved for trial. And  
25 to -- if -- if His Honor is telling me this is a trial issue,

1 it's a trial issue, and I've got to marshal the evidence to  
2 prove our contention that they're really just equity and --  
3 and bogus loan transactions.

4 So twofold. Judge Johnson says we're trying this --  
5 these equity versus loan things -- at trial. And, secondly,  
6 the brand-new motion to increase the bond puts these -- this  
7 financial information front and center again, just like it was  
8 before the evidentiary hearing.

9 THE COURT: Okay. And I do recall specifically Judge  
10 Johnson making that statement. And that leads me to believe  
11 that Judge Johnson, since it is a bench trial, wishes to  
12 address not only the underlying liability issues but the  
13 priority of how the funds would be distributed at that trial.

14 Is that your understanding? Or would that be your  
15 understanding?

16 MR. MURPHY: Not only is it my understanding, but you  
17 said it better than I did a moment ago.

18 THE COURT: Okay.

19 Okay. Mrs. Colbath, good afternoon.

20 Can I ask -- I'm going to ask you a couple questions  
21 before you make your argument.

22 You're muted.

23 MS. COLBATH: I said "good afternoon," Your Honor,  
24 when you addressed me. So let me say it again.

25 Good afternoon, Your Honor.

1 THE COURT: Okay.

2 MS. COLBATH: Very pleased to be back in your  
3 courtroom.

4 THE COURT: Very good. It's good to see you again.

5 Before I hear your argument, Mr. Murphy said  
6 something that is actually in my own mind, and that was, if  
7 you're contending that these are actual, valid loans and you  
8 wish to make that presentation to the Court, in -- whether  
9 it's at the trial or at the -- it's in further hearings in  
10 this case, wouldn't you want to -- to provide this information  
11 to support your position that these are valid loans and not  
12 camouflaged equity?

13 MS. COLBATH: So -- so, Your Honor, we have produced,  
14 to my knowledge -- and I've sent an email while you've  
15 been on.

16 It certainly was my intention, for purposes of the  
17 evidentiary hearing, to produce every loan agreement, every  
18 promissory note, every security document. I don't know what  
19 the reference to "sales documents" means. You know,  
20 I don't -- in this context -- or there was another reference  
21 to investment documents. So the first category.

22 When we get to things like every draft and every  
23 communication from before we even came in contact and signed  
24 a contract with BCB, they want every communication  
25 contemporaneous with -- I don't know -- three or four



1 different -- like -- I didn't follow all the dot -- you know,  
2 whatever.

3 We have reached a point in this case where like  
4 proportionality is just totally lost. I produced the loan  
5 documents. This -- what is being asked -- I mean, every --  
6 they want my general ledger? They want every journal entry?  
7 If anyone changed something in the general ledger, I've got to  
8 go and produce that at this point?

9 The most important thing that we heard from BCB's  
10 counsel was they admit that these documents are not relevant  
11 to their breach of contract claim.

12 And I will go back to the transcript. I do not  
13 recall Judge Johnson saying that one of the -- the issues that  
14 he intended to try in this case was the priority of liens  
15 because that does not arise from the parties' pleadings.

16 At the end of the day there will be a judgment or a  
17 resolution of the case, and the documents that are being  
18 sought are absolutely classic postjudgment discovery. And all  
19 that is before the District Judge at this point are pleadings  
20 that -- that -- BCB never mentioned a loan in its, you know,  
21 hefty 254-paragraph -- what -- you know, I mean -- this was  
22 not a -- a typical notice pleading that was 10 pages and put  
23 me on notice of a breach of contract. This was a day-by-day,  
24 blow-by-blow recitation of what took place.

25 And so these -- this material was sought for the

1 evidentiary hearing; an adverse decision has been made.

2 I didn't expect to have to argue the motion to increase the  
3 bond, but that has nothing to do with --

4 THE COURT: Okay. Time-out. Let me -- excuse me.

5 MS. COLBATH: Yes.

6 THE COURT: I understand there's two -- there's  
7 two things that can be addressed: One is whether or not this  
8 is information that will be presented at the bench trial -- in  
9 other words, that Judge Johnson expects to address at the  
10 bench trial. That's one issue.

11 But we do have the issue of the -- the writ which was  
12 argued, and now you have filed a motion, which I have not  
13 read --

14 MS. COLBATH: Okay.

15 THE COURT: -- that addresses, apparently, increasing  
16 the amount of the writ -- I know you would not be asking to  
17 reduce the amount of the writ, so -- I may be making an  
18 assumption there -- and the -- and critical to the decision on  
19 that does involve the priority of these documents.

20 So does not your motion to increase the amount of the  
21 writ create a relevance even if it did not exist before?

22 MS. COLBATH: Okay. So the answer to that is --  
23 is no.

24 And -- and I understand that you haven't looked at  
25 the motion papers. But the basis of the motion -- Judge

1 Johnson candidly acknowledged to everyone he didn't know what  
2 to do with the bond, and he set a bond of a hundred thousand  
3 dollars while seizing \$15 million.

4 And, while Wyoming doesn't have any cases on the  
5 issue of the bond that I think either party could find, there  
6 are numerous other District Courts in the Tenth Circuit and  
7 they -- they are very specific.

8 And so -- and they say that a bond should be set --  
9 and the numbers that BCB's counsel referenced, the -- the  
10 magnitude of them is absolutely correct because that's what  
11 the law, you know, in Utah and the District Courts that do  
12 have decisions say. It's double the amount of the plaintiff's  
13 claim. That's one line of cases.

14 That has absolutely nothing to do -- whether we've  
15 got bridge loans, short-term loans, secured loans. That is a  
16 simple mathematical calculation based on what the plaintiff  
17 claims his damages are.

18 The second --

19 THE COURT: That's one -- there's a line of cases  
20 that says that, but there's also a line of cases -- and the  
21 Wyoming statute seems to imply that it has to be related to --  
22 the Wyoming statute doesn't say that. And so there's -- the  
23 Wyoming statute appears to say -- and I don't have it off the  
24 top of my head -- that it would be that that would be  
25 necessary to protect the -- the party who is posting -- who is

1 the beneficiary of the bond from damages associated if it's in  
2 error.

3 MS. COLBATH: Correct.

4 THE COURT: And so in that circumstance and applying,  
5 admittedly, just the language of the statute, it would appear  
6 to me, then, that those -- whether they're camouflaged equity  
7 or loans would be critical to the Court's decision.

8 MS. COLBATH: So I -- I mean, I -- I candidly with  
9 Your Honor disagree because the damages that will befall my  
10 client as a -- as a result of having their \$15 million seized  
11 and withheld from them until all the appeals and everything  
12 are exhausted relate to situations like -- okay -- if the  
13 CFIUS order isn't complied with, there could be a forfeiture  
14 of the land.

15 Well, if I -- we don't remove the improvements and we  
16 lose the benefit of our contract, that damage is potentially  
17 11,250,000. That's not relating to a loan that my client  
18 made.

19 So the damages as a result of this are also  
20 different. It's that right now we've put into the Court what  
21 is owed in legal fees. The cases that -- the cases seem to be  
22 clear in the Tenth Circuit where a party is denied counsel  
23 and -- and then that is an irreparable harm that needs to be  
24 taken into account. Again, that's a damage. It's all laid  
25 out and -- and briefed in the motion. It doesn't relate

1 at all to whether something is camouflaged or not camouflaged.  
2 It just doesn't relate to that.

3 And these issues are -- are just, you know, black-  
4 letter law-type issues, that someone's got to have a judgment  
5 before they start mining a general ledger and -- and all the  
6 communications.

7 And, you know, the issue here, in part, is that there  
8 was a -- there was a very significant campaign against my  
9 client. And there have been subpoenas issued that -- that,  
10 you know, have -- obviously, subpoenas to CleanSpark  
11 jeopardize transactions. And so, you know, my client's trying  
12 to secure money from third parties, like an Antalpha, which is  
13 subject to this motion, which BCB's counsel has already  
14 consented to allow it to be paid.

15 So why we would have to go back at this point and --  
16 and get every communication, you know, trying to secure funds  
17 to salvage this project is just so marginal it -- it doesn't  
18 go to merits discovery. To me, we've all lost focus that the  
19 case here is about who breached the contract and what were the  
20 damages.

21 THE COURT: That is the best thing I've heard you  
22 say. I have not heard a single argument in the hours  
23 and hours I've spent on the case about breach of contract.

24 And it would be wonderful if we could get to that  
25 issue, but we've had these side issues regarding discovery and

1 the writ.

2 You attached loan agreements to your motion for -- to  
3 increase the writ -- or the bond, I should say. I'm sorry.

4 And --

5 MS. COLBATH: Yes. I --

6 THE COURT: -- and some of them are dated, you know,  
7 just basically in the last few months.

8 If you --

9 MS. COLBATH: Correct.

10 THE COURT: -- were on the other side and you  
11 received loan agreements for loans that were supposedly  
12 occurring in '22 and '23 and you saw the loan agreement was  
13 dated in '24, wouldn't that raise substantial red flags in  
14 your mind as to the validity of those documents?

15 MS. COLBATH: I -- I agree that the date is something  
16 that's curious. It obviously has an explanation. If anyone  
17 knows what was going on and -- and, you know, like --  
18 I mean -- listen. CFIUS wanted -- wanted the ownership to --  
19 you know, they were the driving force, frankly, in that.

20 But the fact that a loan -- someone has some issues  
21 or questions doesn't -- doesn't impact at all the -- the  
22 issues before the Court, and that is who breached this  
23 contract and what were the damages.

24 And if they are successful at the end of the day in  
25 getting a judgment, then issues of priority -- I mean, that --

1 there's no issue now at -- I mean, they -- they successfully  
2 got the attachment. That's done. The record has been  
3 established. They said -- that motion was made for expedited  
4 discovery, they absolutely needed it, and they got the  
5 attachment without it. So they've received their attachment.

6           It -- it -- you know, I -- my biggest concern,  
7 honestly, at this point -- my client has spent over a million  
8 dollars providing discovery in this case, and I just see like  
9 another -- like every time -- you know, this is so marginally  
10 relevant to the issues that -- that -- that are being  
11 discussed and that need to be decided by the Court. It  
12 doesn't -- it's not in a pleading.

13           And, again, where I started off, I don't think that  
14 the issue of determining priority is before Judge Johnson at  
15 the trial. And I certainly would be making a motion in limine  
16 on that now -- you know, based on what I'm hearing.

17           First, you have to have liability. Then -- then --  
18 then, once there's a judgment -- if the judgment is -- is, you  
19 know, for -- for, you know, \$50,000, you don't get to priority  
20 issues.

21           So like that cart is so far before the horse when we  
22 don't even have a liability determination.

23           And to like have -- have the defendants produce  
24 general ledgers, you know, for -- and, plus, you know, on some  
25 of the document requests they're requesting that you require

1 nonparties -- they're asking for the accounting journal  
2 entries and the bank statements related to an entity called  
3 MineOne Cloud Computing Investment One Limited Partnership.  
4 They're not even a party.

5 I mean, so -- you know, I don't have the ability --  
6 you know, I'm -- I represent very specific parties here.

7 I -- I -- I think Mr. Murphy's concession that if --  
8 he acknowledges it doesn't relate to any claim asserted by any  
9 party currently in the case. And -- and BCB's counsel also  
10 readily acknowledges that their request is what they call  
11 robust.

12 "Robust" is code for -- from -- from my -- you know,  
13 it's so overbroad. It's marginally relevant. And -- I mean,  
14 the undertaking to like comply with every communication -- as  
15 you saw, this -- this project -- they raised money before they  
16 started. There were significant cost overruns. There were  
17 extended delays. We can fight about why that was. That's the  
18 reality that everyone agrees to.

19 There was a constant effort -- before this project  
20 became, you know, something that we thought could be  
21 realistic, there was issues with raising money.

22 So we're back from 2022, before we even sign a  
23 contract with BCB. They want to know every -- every transfer,  
24 every dime -- meanwhile, I just want to put the -- the -- just  
25 flip this a little bit: I, too -- you heard one of the



1 witnesses testify at the outset of his testimony how he was  
2 totally in this, every penny, family, friends, the whole bit.

3 I, too, asked for financial information about where  
4 that 3 million went that the plaintiff raised, and they have  
5 taken the position that that has -- money is not anything  
6 that's relevant at this point. And they have refused to  
7 produce anything on that because, until there's judgments --  
8 you know, where money went and when it went is irrelevant  
9 until you have a judgment.

10 So we produced the loan agreements. You know -- bank  
11 statements. Bank statements don't indicate in any way, shape,  
12 or form --

13 THE COURT: I don't -- I don't think I'm going to  
14 order bank statements regardless of what I do, so you can move  
15 on on that.

16 MS. COLBATH: Okay.

17 THE COURT: I would need something further before  
18 I would order bank statements.

19 MS. COLBATH: Understood.

20 So -- so a draft -- let me -- let's talk about, then,  
21 the other categories.

22 There has to be -- if there's any inclination on the  
23 Court's part -- not that -- that my clients, my office, we  
24 don't spend the next 45 days trying to track down every  
25 communi- -- you know -- communication relating to someone

1 asking for financing. There's -- just to even -- with the  
2 massive -- see, we did a different kind of collection than --  
3 than the plaintiff here.

4 We actually hired a firm to image everything and  
5 apply search terms against it, and, you know, we're up to --  
6 I don't know -- over 30,000 pages or documents. Plaintiff, on  
7 the other hand, they did a self-collection. They went and  
8 said, "Okay. Well, this looks good and we'll produce that."

9 And so when you have the massive amount of data that  
10 I have -- we took entire servers and -- and did a search --  
11 that's what makes it so much more difficult. It's not going  
12 to a file drawer and pulling out a -- a loan file on  
13 something. It just doesn't work that way.

14 So, again, proportionality -- this is all about  
15 priority. I would say that frequently Courts bifurcate issues  
16 and, if the priority becomes a real issue at the end of the  
17 day, when -- when one of us has our judgment, the appropriate  
18 time for this type of discovery is at that point, when it is  
19 an important discovery item.

20 And, you know, you do the discovery then, when --  
21 when it's -- when it's relevant. It -- it is not relevant  
22 now.

23 THE COURT: As you know, Ms. Colbath, one of the --  
24 the tasks that I assumed upon myself was a limited in camera  
25 review of Skype messages. Thank goodness I limited it to

1 10 days.

2 In that there is -- in that redacted portion that --  
3 I don't want to say anything that would obviously reveal it,  
4 but there are discussions about money issues. And about the  
5 bridge loan and, you know, this money, that money.

6 MS. COLBATH: Sure.

7 THE COURT: And you have decided that -- not to  
8 produce those or redact those simply because you're standing  
9 on -- on the position that -- that they are economic in nature  
10 and, therefore, are not relevant? Or are you standing on any  
11 other position that that information is -- is not only  
12 irrelevant but, also, privileged in some form? And I -- I use  
13 that term not in the lawyer -- attorney-client privilege.

14 MS. COLBATH: So --

15 THE COURT: It doesn't seem -- it doesn't -- it  
16 didn't seem to be anything there that is very shocking, quite  
17 frankly. But it might provide some information regarding, you  
18 know, what is loans and what are investments if it -- if I  
19 think about it in that context.

20 MS. COLBATH: Yeah. So -- so until the attachment  
21 became an issue, I mean, I think both sides, you know, had  
22 objected to any kind of financial records from the other. And  
23 so, consistent with that position, anything having to do with  
24 loans.

25 And BCB's counsel at one point pressed Judge Rankin

1 on this issue, and Judge -- if you recall, Judge Rankin asked  
2 us to -- to submit to him the Antalpha loan agreement and  
3 attachments and exhibits and we do so. And at that point in  
4 time Judge Rankin said "You don't have to produce it." So --  
5 so -- and that was an actual loan agreement.

6 So defi- -- you know, clearly, we don't -- we weren't  
7 producing communications relating to our -- you know, who we  
8 contact to raise money and things of that sort. Both sides  
9 had objected. And so that's the redactions that you see.

10 You know, I started to try to look at what you were  
11 receiving, and my eyes were glazing over, I think like yours,  
12 so I just kind of said "I" -- you know, "Whatever he says we  
13 have to produce we'll produce." And I think we already said  
14 we would produce CFIUS so that we could take that off your  
15 plate.

16 But it was just being consistent with our objections.  
17 There wasn't any, you know -- I -- and I didn't sit down and  
18 do the redactions. My -- my colleagues and people on the team  
19 did it, and I think we said we're not producing anything  
20 relating to loans, investors, those kinds of communications,  
21 so it was redacted.

22 I mean, some of it I'm -- I'm sure most of it --  
23 probably is not going to move the needle for anyone here.

24 THE COURT: I really haven't seen anything that moves  
25 the needle very far.

1 I do -- I do -- the SEC stuff has nothing to do with  
2 this, in my opinion, and I -- so I -- but -- believe me,  
3 there's nothing very substantive about the SEC in this stuff  
4 so far. There's nothing that substantive in any of these  
5 communications.

6 MS. COLBATH: I agree.

7 I knew it would be painful for you, but you agreed  
8 that you -- as a compromise -- that you -- the other thing was  
9 you said you'd look at 10 of them.

10 And I think I explained at one point -- the way we  
11 did it so that we could move through it quickly was, rather  
12 than doing each individual message as its own separate kind of  
13 document, we just took the entire day. So you got a little  
14 bit more, and that maybe is what created the confusion.

15 THE COURT: Okay.

16 MS. COLBATH: But I -- but I --

17 THE COURT: You do bring up the fact that I -- I --  
18 I volunteered for that, so I walked right into it.

19 I -- I have to look at this -- and, obviously, I'm  
20 not going to make a decision today.

21 Mr. Murphy, don't worry. I'll get back to you.

22 I have to look at this in two aspects: Is this  
23 information -- and that would be communications regarding --  
24 or -- and that one gets to be difficult but -- communications,  
25 drafts, things of that nature and ledgers regarding these

1 financial transactions and whether they are loans or -- or  
2 capital contributions -- would that be discoverable at this  
3 point in time with the fact that the -- the writ is still an  
4 issue, based upon your recent motion? Or would it be an issue  
5 based upon if the writ's -- if the writ was a dead issue at  
6 this point in time and we were only looking at the -- the  
7 trial?

8 I think it would be -- I think it would be an easier  
9 case if the writ was not there. And I say that with the  
10 understanding that I need to go back and read that motion now.  
11 It is interesting that you attached those loan documents to  
12 it, but that -- I don't know exactly why they're attached.

13 So do you understand --

14 MS. COLBATH: I've got an answer for that. I've got  
15 an answer.

16 You saw the speed with which we all had to talk and  
17 move and think during that evidentiary hearing. I mean, the  
18 clock was ticking. And it just wasn't sufficient time to  
19 spend arguing admissibility of -- of like all the documents  
20 that we really wanted in.

21 I had made a -- an effort to try to get consent on  
22 key things, and I had to make a judgment call, and I said  
23 "I need to have my witness get -- deliver his testimony," and  
24 so I attached them this time.

25 That's -- that's the truth.

1 THE COURT: Okay. Well, I'm going to review it and  
2 see whether or not, in my opinion -- ultimately, I have to  
3 decide -- if I do find that the validity -- and I -- I don't  
4 want to use the word "validity" -- whether they're loaned or  
5 capital contributions is at issue because of the pending  
6 motion to increase the writ, then I would order discovery.

7 MS. COLBATH: I understand.

8 THE COURT: If I find that it's not relevant for that  
9 issue, then I have to go to the next issue, is whether or not  
10 they need to be produced at this point in time because of what  
11 Judge Johnson said or because of issues that may be at trial  
12 in this matter, at least reasonably anticipated to be at issue  
13 in the trial.

14 So with that being said, Mr. Murphy, I will turn back  
15 to you.

16 You've heard what -- my conversations with  
17 Ms. Colbath; you've heard my comments.

18 What else would you like to tell me?

19 MS. COLBATH: Your Honor, could I just make one final  
20 point to leave you with as you -- after -- think about the  
21 motion and everything.

22 Because when I'm thinking of the type and the nature  
23 and the volume of the documents that are being sought, general  
24 ledgers, every -- you know, every accounting entry, things of  
25 that sort -- really, what is happening because -- and I say

1 this because it's how I -- my client and I feel.

2 It's like -- you know, BCB's counsel didn't move for  
3 a receiver. But right now it's like they're acting like a  
4 receiver, like review -- you know, I've got to turn over a  
5 general -- and not that -- I don't even know what's in the  
6 general ledger. I don't do accounting for -- for my client.  
7 But the nature of these requests is they basically want to  
8 second-guess and decide everything for the company.

9 And, again, I just -- I want to leave you with that  
10 word, "proportionality," because I've been on the -- you  
11 know -- the end of worldwide collections, expensive. We -- we  
12 did it the proper way with an outside vendor and everything.

13 So I appreciate you giving me the additional time.

14 THE COURT: Okay.

15 Mr. Murphy.

16 MR. MURPHY: Very, very quickly, Judge Carman.

17 I just need to clarify what Ms. Colbath said earlier,  
18 that this is -- the motion that the -- MineOne filed on  
19 July 8th is not a motion to increase the writ amount. It's a  
20 motion to increase the amount of the surety bond.

21 THE COURT: I apologize. I may have said that  
22 incorrectly. I apologize if I did.

23 MR. MURPHY: Another -- okay. No worries.

24 And then we just all need to remember that it was not  
25 until MineOne sought to take the Campstool -- really -- the



1 CleanSpark money and give it to its alleged creditors that  
2 this issue of loans and equity was first thrust upon us.

3 When we learned about the CleanSpark sale on around  
4 May the 9th or 10th -- I think -- it may have been May the  
5 12th -- and then the President issued his order the next day,  
6 on May 13th. And then on May 15th we filed our emergency  
7 motion.

8 So we know that the loans and who they were paying or  
9 not paying was not an issue in the underlying case. But when  
10 they secretly did their deal with CleanSpark and then we found  
11 out about it afterward and realized that they're trying to pay  
12 all the money to themselves and their related parties, that  
13 then thrust the case into a whole different posture.

14 And Judge Johnson alluded to that -- I know you were  
15 with him that day, on May 17th when he -- when both of you sat  
16 on the bench in the courtroom, and I think Judge Johnson said  
17 words to the effect that this is a whole different deal than  
18 it was before. And that was accurate.

19 So that's the reason these are important, and it's  
20 finally -- the combination of what Judge Johnson is telling us  
21 is going to be at issue in trial on loans versus equity  
22 combined with the new motion to increase the bond that keeps  
23 this financial discovery very relevant.

24 I understand why -- or I believe why -- MineOne  
25 doesn't want me or BCB to see its contemporaneous

1 communications about these things or about its drafts of the  
2 loan documents. It's not going to help them. It's going to  
3 hurt them, and they don't want us to have it. But we need to  
4 have it to present the case that Judge Johnson believes is  
5 teed up for trial.

6 Thank you, Judge Carman.

7 THE COURT: Okay.

8 I'm going to review additional materials and will  
9 issue a decision in this case.

10 As I previously said, I -- at this point in time  
11 I would not be inclined to order banking records established  
12 unless there's some other finding later on that would be  
13 required to go into that level of detail.

14 I -- oh, okay.

15 No. I think what is of issue here is maybe drafts,  
16 maybe some communications, and the . . .

17 MR. MURPHY: The documents themselves.

18 THE COURT: Well, the documents. But a lot of those  
19 have been produced except for the drafts of the documents.

20 Some level of -- of contemporary correspondence  
21 potentially.

22 My understanding at this point in time -- and you  
23 would not agree -- disagree -- would you? -- that loan  
24 documents have been produced. I understand you contest their  
25 validity or their completeness but --

1 MR. MURPHY: No -- Your Honor, I do disagree with  
2 that.

3 The loan documents, as I said at the end of my  
4 opening argument -- some of them have not been produced. Some  
5 of them -- some of them have --

6 THE COURT: Oh, between the other parties.

7 MR. MURPHY: -- and some -- yeah. And some have not.

8 THE COURT: The other parties.

9 MR. MURPHY: So I want all of the subject loan  
10 documents. All of them, not some of them. So clarification  
11 there.

12 THE COURT: Do you have the transcript of that  
13 hearing available in front of you, Mr. Murphy?

14 MR. MURPHY: I don't. All I did was order what Judge  
15 Johnson ruled. But I'm probably going to order the rest of  
16 the transcript. I just haven't done it yet.

17 THE COURT: I was wondering if you could give me some  
18 guidance because I want to go back and look at that ruling, as  
19 well.

20 Do you have any page numbers about that language that  
21 you're referring regarding the issues at the trial?

22 MR. MURPHY: I do. I do, Your Honor.

23 Just a sec here.

24 You want to look at these pages: Page 208. Let's  
25 see where else I wrote it down here.

1           Really, I think it's 2- -- 200 through 208. There's  
2 20 pages of Judge Johnson's rulings. I think it really goes  
3 from about 199 to 219 if I recall. But I think the juice is  
4 in 200 to 208.

5           THE COURT: Okay. I will endeavor to get an order  
6 out in this.

7           I do have five more days that I need to review  
8 regarding the in camera, but I do think a lot of the ruling on  
9 the in camera may be related to my overall ruling regarding  
10 these other documents.

11           I'm going to raise another issue in this case, and  
12 that is whether or not the parties are willing to discuss any  
13 form of mediation in this matter.

14           I see that both sides are working very hard; they're  
15 both expending a tremendous amount of lawyers' time, which  
16 means dollar signs. And I don't know whether or not the  
17 parties are interested in mediation.

18           If you're interested in mediation, I can conduct it  
19 up until the time that I -- my recall ends and I return to my  
20 life of retirement.

21           After that time there are -- there will be a new  
22 Judge, but I don't think that Judge will be acceptable to  
23 Ms. Colbath for various reasons. And so -- so . . . you're  
24 always free to use a private mediator, as well.

25           I -- I have heard Mr. Murphy's previous position

1 regarding mediation, and that was that, at least in the past,  
2 he was -- he was willing to do mediation.

3 Ms. Colbath, have you had any conversations with your  
4 clients about whether or not . . . it would be worthwhile to  
5 undertake any kind of mediation at this stage of the  
6 proceedings?

7 MS. COLBATH: I -- I've had those conversations.  
8 I actually had them with Mr. Murphy before he even filed this  
9 action. Between the Chancery Court and the Federal Court  
10 I suggested it. However, things didn't go -- anyway, that's  
11 ancient history at this point.

12 And we obviously would love to use your offices  
13 and -- and assistance to see -- I -- I can tell you there have  
14 been some -- not -- not me but with other counsel here --  
15 try -- some preliminary discussions, and I -- I think it's --  
16 it, you know, is ripe.

17 THE COURT: Mr. Murphy, do you have any thoughts on  
18 this?

19 MR. MURPHY: I -- I have a lot of thoughts on this.  
20 But what I'm going to do -- and I think it would be helpful to  
21 you -- is if I defer to our friend Marc Gottlieb in New York  
22 City and have him tell you about his call with me on July 1st  
23 and what we think about that.

24 Marc?

25 MR. GOTTLIEB: Good afternoon, Your Honor.

1 I'll be happy to -- to discuss that with -- with the  
2 Court.

3 I do have one issue I do want to raise aside from  
4 this, and it's one that benefits and burdens all the parties  
5 here -- but we're all together -- and that is the issue of how  
6 we're going to get -- with all of this going on -- how we're  
7 going to get 40 depositions done in 30 days.

8 But I -- I'd like the Court to just be -- to think  
9 about that for a moment because that's what we're facing here.  
10 While we go -- while we're all going through all of these --  
11 all the other parties are going through all of these other  
12 discovery disputes, not much is being done on the issue of the  
13 breach of contract, which gets to the heart of this case. But  
14 I'll leave that out there for the time being.

15 Mr. Murphy and I did speak -- I think it was last  
16 week. We had a very pleasant conversation, and I really  
17 enjoyed speaking with him about this case and about the  
18 possibility of settling.

19 One of -- and -- and I will say this: Mr. Murphy  
20 seemed very open and very amicable to settling this case, and  
21 I expressed to him that, given the fact that there's a lot of  
22 complexities here and that there are writs of attachment now,  
23 that settlement is probably -- it's probably a ripe time to  
24 talk about settlement and we're very interested in doing so.

25 The only concern I have is the fact that, because the

1 Court chose to freeze so much money there, it's really put  
2 us -- it's put the defendants in a very bad position from a  
3 negotiating standpoint for many reasons.

4 Number one, it gives plaintiff the view that they've  
5 already won and that pot of gold is theirs and all they have  
6 to do is just maybe -- maybe give some of it back to us as  
7 opposed to, you know, a reasonable, equitable settlement.

8 And, number two, that, because all this money is  
9 being frozen, we're concerned about even having the ability to  
10 continue to litigate this case. And whereas the Court was  
11 trying to protect the plaintiffs and bending over backwards,  
12 it's -- it's hampered us in our ability to litigate this case,  
13 and it weakens our settlement position.

14 With that being said, Mr. Murphy and I did promise to  
15 speak with each other to see if we can get closer to -- to  
16 numbers that make sense. I never give up. We are very wide  
17 open, all of us, to settling this case.

18 And I don't know that we need a professional mediator  
19 to do it because we're all very, very experienced lawyers, and  
20 I'm not sure that a mediator is going to tell Mr. Murphy or  
21 tell me anything that's going to really alter the equation too  
22 much, but we're happy to do it. And I think that we should  
23 have that discussion.

24 So if that advances the ball here -- I hope it does.

25 Pat, you can step in on anything I just said.

1 MR. MURPHY: Okay. Thank you, Marc.

2 And, Judge Carman, you know, Marc is spot on about a  
3 lot of the things he just shared with you.

4 Marc called me on July 1st, while I was at a  
5 mediation with Brad Bonner up in Cody, and said that he has  
6 been designated to be the settlement representative or the  
7 attorney negotiating for all of the defendants. I was happy  
8 to hear that. Marc and I have an excellent working  
9 relationship.

10 And we both talked about whether we should have a  
11 mediation. We both mentioned to each other that, man, that's  
12 just so time-consuming and costly to go find a mediator, do  
13 mediation statements, all that preparation when we really need  
14 to be more focused on the litigation or on settling the case.

15 And when I left the July 1st conversation with Marc,  
16 I understood that he would be getting back to me with a firm  
17 settlement offer on behalf of the defendants, and I'm totally  
18 prepared to respond to that within the same day that I get it.

19 We talked about how we needed to talk settlement and  
20 talk litigation on parallel tracks simultaneously, at the same  
21 time. I understand that. I agreed with that. Marc is right  
22 about that.

23 Marc agreed with me -- as I had predicted to Judge  
24 Johnson before he -- His Honor granted the writs -- that  
25 granting of the writs would be a change in the settlement



1 landscape, it would be the -- the thing that would kick-start  
2 any settlement talks. And on July 1st I got that call from  
3 Marc, and it seemed to be the case.

4 Now, I haven't heard anything from Marc since  
5 July 1st and now it's July 11th, so I have to have a little  
6 bit of pause on -- on how genuine the defendants are about  
7 making that opening offer to me. But I -- I am receptive to  
8 it if it ever comes.

9 If Marc and I feel that we are better off to mediate  
10 it, we'll jump on it. I -- I've -- I've already told him --  
11 and everybody -- that I would be -- I remember mediating with  
12 Judge Rankin last year following a trial I had with Judge  
13 Freudenthal. I jumped on it. I would jump on Your Honor  
14 being the Mediator Judge on this case. But I just haven't  
15 been able to get, heretofore, any firm commitment from the  
16 defendants as a group or individually.

17 That's where we're at. So my attitude is good.  
18 Positive attitude, as always, wanting to see the case settle.  
19 It's not going to settle cheaply or unreasonably but  
20 reasonably, and I'm ready to engage.

21 MR. GOTTLIEB: Your Honor, if I --

22 MR. MURPHY: Have been for the last 10 days.

23 MR. GOTTLIEB: Let me respond to that. Patrick, let  
24 me just respond to that briefly.

25 I agree with you. We are going to make an offer of

1 settlement. It is going to come. We're trying to work it out.

2 But, that being said, one of the things I will tell  
3 you -- and I think I did mention this to you -- is, in order  
4 to get a -- in order to get a settlement, one of the things  
5 that -- that is done in a mediation, as you know, is that both  
6 sides really put forth a lot of their evidence, and, you know,  
7 the mediator looks at the evidence and tries to convince each  
8 side that the -- you know -- that the other side's evidence is  
9 very compelling. And you always think the other -- the  
10 mediator's in the bag for the other side. I tell my clients  
11 that all the time, that the other side is saying the same  
12 thing.

13 But what I will say is we don't have the luxury yet  
14 of having all of the definitive evidence that we would need to  
15 even the playing field because right now, in order to --  
16 obviously, a settlement is not based upon -- I always tell my  
17 clients this.

18 A settlement is not based upon what you want or what  
19 I want. The math is really what you're likely to get versus  
20 what's on the table. That's really it. What you want has  
21 nothing to do with a settlement; right? Other than your  
22 willingness to accept what's on the table.

23 So in order to decide what's -- what you're likely to  
24 get -- what either side is likely to get by way of a  
25 verdict -- it does require some -- some depositions, some --

1 some witness testimony. It requires more than we currently  
2 have, in my opinion, in order to move you.

3 I -- I think what we have in our personal side is  
4 enough to win the case. But to convince you to move off your  
5 position -- and vice versa, by the way. It goes the other way  
6 around, as well.

7 So the fact that we haven't gotten there yet doesn't  
8 mean we won't get there. We're not on trial until January.  
9 I do believe we have a big squeeze between now and then.

10 But -- the fact that we haven't reached a settlement  
11 today doesn't mean we won't get there, but we may need to do a  
12 little bit more of this discovery to weaken each other's --  
13 weaken each other up a little bit in order to get to a  
14 reasonable number.

15 MR. MURPHY: The greatest mediation I ever had was  
16 over the Hitching Post Inn that the guys burnt down. I think  
17 there was a gentleman named Judge Mark Carman who mediated  
18 that three-day mediation.

19 THE COURT: I've had longer.

20 MR. MURPHY: Have you really? I'm sorry to hear that.

21 THE COURT: Here's what I'll say in response to  
22 Marc -- without disagreeing at all.

23 I do think that -- that both sides are going to take  
24 depositions, that there is going to be a -- an interesting  
25 issue about whether or not there was a breach of contract or

1 not a breach of contract or was there anticipatory repudiation  
2 of the contract.

3           Why I bring it up at this point in time is that there  
4 appears to be an issue that will be coming up before Judge  
5 Johnson which could be determinative for this case, and that  
6 is what to do with the -- with the bond on the writ. It  
7 appears that this has become the focus of this case, even more  
8 than the breach of the contract, at least at this stage.

9           And, you know, if -- if Judge Johnson raises that  
10 bond substantially, that could put Mr. Murphy and his clients  
11 out of business. And, apparently, if he doesn't reduce it,  
12 that could greatly impact the ability of your clients to  
13 defend the case. I had not heard that before until today.

14           So, nevertheless, it appeared to be to me a good time  
15 for the parties, before any ruling is made on that, to sit  
16 down and discuss settlement. And so that's why I just offer  
17 my services.

18           You will not break my heart if I do not have to  
19 mediate this case. I -- I will not take offense at all. But  
20 I have handled cases far larger than this one in mediation  
21 and, quite frankly, as an attorney.

22           And it does appear to me that we're quickly getting  
23 to the point -- even though there are substantial numbers  
24 being thrown around, when you get to what's actually probably  
25 at issue in this case, we are -- to borrow Ms. Colbath's

1 language -- getting beyond the realm of proportionality. So  
2 I just make that offer.

3 I would encourage you, regardless of how you do it,  
4 to have those conversations sooner rather than later, but, if  
5 you decide not to, that's perfectly acceptable with me. I'll  
6 be enjoying a nice cocktail on the back porch and be retired.

7 Okay. I want to compliment the attorneys. This is  
8 the best hearing that I've had in this case, and I truly  
9 appreciate it. It makes it easier for me. I could hear what  
10 everybody said. The arguments were very well presented by  
11 both sides, and it was a pleasure.

12 Is there anything further, Mr. Murphy, on behalf of  
13 the plaintiff?

14 MR. MURPHY: No. Thank you, Judge Carman.

15 THE COURT: Mr. Colbath -- Ms. Colbath, is there  
16 anything further on behalf of any of the defendants that you  
17 wish to bring up at this time?

18 MS. COLBATH: No, Your Honor. Thank you for your  
19 time.

20 THE COURT: Very good.

21 We are in recess.

22 MR. GOTTLIEB: Thank you, Your Honor.

23 MS. COLBATH: Thank you.

24 (Proceedings adjourned at 2:55 p.m., July 11, 2024.)  
25

C E R T I F I C A T E

I, MELANIE HUMPHREY-SONNTAG, Federal Official Court Reporter for the United States District Court for the District of Wyoming, a Registered Diplomate Reporter, Certified Realtime Reporter, and Certified Realtime Captioner, do hereby certify that I reported by realtime stenography the foregoing proceedings contained herein on the aforementioned subject on the date herein set forth and that the foregoing pages constitute a full, true, and correct transcript.

Dated this 12th day of July, 2024.

/s/ Melanie Humphrey-Sonntag

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MELANIE HUMPHREY-SONNTAG  
RDR, CRR, CRC  
Federal Official Court Reporter